

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re: : Chapter 7
: Case No. 11-10590 (JMP)
SEASONS INDUSTRIAL CONTRACTING, CORP.,: Debtor. :
: :
: :
-----X

**STIPULATION AND ORDER BETWEEN THE TRUSTEE AND
CAPITAL ONE, N.A.**

WHEREAS, on February 14, 2011, Seasons Industrial Contracting, Corp. (the “Debtor”) filed a petition under chapter 7 of the United States Bankruptcy Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Court”); and

WHEREAS, On February 15, 2011, Robert L. Geltzer was appointed the Chapter 7 Trustee (the “Trustee”) of the Debtor and continues to serve in that position; and

WHEREAS, on May 5, 2011, the Trustee filed three (3) Notices of Sale of Certain Property (the “Property”) of the Debtor (the “Sale Notice”) pursuant to which the Trustee would sell such Property for a total of \$15,500.00 (the “Sale Proceeds”); and

WHEREAS, prior to the filing of the Sale Notices, Capital One, N.A. (“Capital One”) had filed a secured proof of claim against the Debtor in the aggregate amount of \$141,658.64 alleging a security interest (the “Security Interest”) in among other things, property of the Debtor by virtue of the Security Agreement dated as of June 30, 2005, and UCC’s filed on July 26, 2005 and March 21, 2011 (the “UCCs”); and

WHEREAS, the Trustee took the position that Capital One’s UCC filing was defective,

thus rendering Capital One's status that of an unsecured creditor; and

WHEREAS, subsequent to the filing of the Sale Notices, Capital One provided the Trustee with documentation which indicates that Capital One did in fact filed proper UCCs, recorded in the Department of the Treasury, Division of Revenue, City of Trenton on July 26, 2005 and March 21, 2011 and is secured; and

WHEREAS, the Trustee agrees that Capital One's Security Interest covers the Sale Proceeds but at the same time, the Trustee asserts that he would be entitled, pursuant to 11 U.S.C. 506(c) "to recover from the property securing an allowed secured claim, [i.e. the Sale Proceeds], the reasonable, necessary costs and expenses of preserving, or disposing of, such property..."; and

WHEREAS, Capital One and the Trustee desire to dispense with the necessity of any motion practice and wish to enter into this Stipulation to provide for a "carve-out" of Capital One's Security Interest in the Sale Proceeds to allow for the payment of allowed administrative expenses and, if funds remain available thereafter, for the payment of allowed priority and unsecured claims.

NOW THEREFORE, it is hereby stipulated and agreed between Capital One and the Trustee as follows:

1. Capital One shall be entitled to a distribution of \$10,500.00 from the Sale Proceeds in partial satisfaction of its Proof of Claim.

2. The remaining amount of the Sale Proceeds, (i.e. \$5,000.00) shall constitute a "carve-out" from Capital One's Security Interest and shall be used by the Trustee to (a) fund the estate's allowed administrative expenses incurred on account of the Trustee's allowed commissions, and the allowed fees and expenses of the Trustee's Court approved professionals,

and (b) fund a distribution to holders of priority, unsecured or undersecured claims in the Debtor's case to the extent that any funds remain after payment of the above described allowed administrative expenses.

3. This Stipulation shall be effective upon its approval by the Bankruptcy Court. .

Dated: New York, New York
May 18, 2011

JASPMAN SCHLESINGER LLP
Attorneys for Capital One, N.A.

By: /s/ Frank Dell'Amore
Frank C. Dell'Amore (fdellamore@jaspanllp.com)
300 Garden City Plaza
Garden City, New York 11530
(516) 393.8289

SQUIRE, SANDERS & DEMPSEY (US) LLP
Attorneys for Robert L. Geltzer, as
Chapter 7 Trustee for Seasons Industrial Contracting,
Corp..

By: /s/ Andrea K. Fisher
Andrea K. Fisher (andrea.fisher@ssd.com)
30 Rockefeller Plaza
New York, New York 10112
(212) 872-9800

SO ORDERED:

Dated: New York, New York
June 14, 2011

s/ James M. Peck
Honorable James M. Peck
United States Bankruptcy Judge